



Attorney Docket No. 55340 (70840)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): T. Hiramatsu
SERIAL NO: 09/674,068 EXAMINER: Nguyen, Chau M.
FILED: April 6, 2001 GROUP: 2633
FOR: SPACE-DIVISION MULTIPLEX FULL DUPLEX LOCAL AREA NETWORK

CERTIFICATE OF MAILING

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**RESPONSE TO NON-FINAL OFFICIAL
ACTION REQUIRING ELECTION/RESTRICTION**

This is in response to the currently outstanding non-final Official Action in the above-identified case dated December 29, 2003.

Claims 26-43 are pending in the subject application. Claims 26-43 are subject to restriction and/or election requirement.

In the currently outstanding non-final Official Action, the Examiner has:

1. Failed to comment upon the acceptability of the drawings filed with this application.
2. Failed to acknowledge Applicant's Information Disclosure Statement of 7 February 2001 by providing the Applicant with a signed, dated and initialed copy of the Form PTO-1449 submitted therewith in confirmation of the consideration of the art listed therein;
3. Identified the following inventions claimed in the present application that he alleges to be patentably distinct from one another:
 - Group I, claims 27-31, drawn to the alignment of transmitted/received signals in a space division wireless system, classified in class 398, subclass 129.
 - Group II, claims 33-35, drawn to the structure of the transceiver of a free space device, classified in class 398,m subclass 135.
 - Group III, claims 36-43, drawn to a method of communication between a base station and a specific terminal with details of signal/noise ratio, classified in class 398, subclass 41.
3. Required the Applicants to elect one of the foregoing inventions under 35 USC 121 for further prosecution on the merits in this application.
4. Indicated that inventions of Groups I, II and III are related as subcombinations disclosed as usable together in a single combination and asserted generally that the inventions can be shown to be distinct if they can be shown to be separately usable. Further, the Examiner asserts that the invention of Group I has separate utility such as the details of the angle of the transmitter that are not required by the inventions of Groups II and III. The invention of Group II has separate utility such as the details of the receiver the intensity of each terminal that are not required for the inventions of Groups I and III. The invention of Group III has separate utility such as the details of the method of communicating between the base station and a specific terminal not required for the inventions of Groups I and II.
5. Indicated that Claims 26 and 32 are linking claims linking the inventions of Groups I and II such that the restriction requirement between Groups I and II will be withdrawn if the linking claim(s) is allowed.

6. Indicated that (1) if the applicant elects invention I above, claims 26-32 will be examined, and that if claim 32 is found to be allowable, then claims 33-35 would be joined; (2) if the applicant elects invention II above, claims 26 and 32-35 will be examined, and if claim 32 is found allowable, then claims 27-31 would be joined; and (3) if applicant elects invention III, claims 36-43 will be examined.

In response to the currently outstanding requirement for restriction, **Applicant hereby provisionally elects Group I, Claims 27-30 with traverse** for further prosecution in the merits in this application.

In support of the foregoing traversal of the Examiner's currently outstanding requirement for restriction, Applicant respectfully calls the Examiner's attention to the fact that Claims 37-43 more properly are characterized as part of the Group I invention than as part of the Group III invention. Specifically Claims 37-43 are apparatus claims that depend from apparatus claims 27-30 which belong to the Group I invention (alignment of transmitted/received signals). The Group III invention is apparently considered by the Examiner to encompass the method of claim 36 (i.e., a method of communication). Accordingly, it is respectfully submitted that the Examiner has mistakenly understood claims 37-43 to be dependent upon Claim 36 rather than upon claims 27-30.

Accordingly, it is respectfully submitted that as a result of Applicant's foregoing provisional election, examination on the substantive merits should now proceed with respect to Claims 27-30, Claims 37-43 and linking Claims 26 and 32.

Should the Examiner disagree and refuse to uphold Applicant's traversal as hereinabove explained, Applicant respectfully requests that substantive examination proceed on the basis of the foregoing provisional election, and that Claims 37-43 be brought back into the prosecution upon the allowance of Claims 27-30.

Applicants respectfully submit that this communication is fully responsive to the currently outstanding Official Action in the above-identified application. Early substantive consideration and allowance is respectfully requested.

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Applicants also believe that additional fees beyond those submitted herewith are not required in connection with the consideration of this response to the currently outstanding Official Action. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge and/or credit Deposit Account No. 04-1105, as necessary, for the correct payment of all fees which may be due in connection with the filing and consideration of this communication.

Respectfully submitted,

Date: January 27, 2004

David A. Tucker
SIGNATURE OF PRACTITIONER

Reg. No.: 27,840

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